

REMARKS

This Amendment and Reply is intended to be completely responsive to the Final Office Action mailed November 23, 2007. Applicant respectfully requests reconsideration of the present Application in view of the foregoing amendments and in view of the reasons that follow. Claims 5, 9, 12, 14, 17 and 24-26 have been amended. No new matter has been added. Accordingly, Claims 5-26 will remain pending in the present Application upon entry of this Amendment and Reply.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the Application, is presented, with an appropriate defined status identifier.

Claim Rejections – 35 U.S.C. § 103

On pages 2 through 4, the Examiner rejected Claims 5-26 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,738,427 to Nishino (“Nishino”) in view of U.S. Patent No. 5,791,738 to Niezoldt (“Niezoldt”). In rejecting Claims 5-26, and in response to the Amendment and Reply filed on October 3, 2007, the Examiner stated:

[T]he sub-frames disclosed by Niezoldt do have upper ends. These upper ends correspond to the point where sub-frames (3) contact frame (4). The term “end” does not necessarily imply a “free end,” it simply implies the end of a section. The point at which sub-frame (3) meets first frame member (4) constitutes an end of a section and therefore meets the limitation of an “upper end.” Replacing the seat back frame disclosed by Nishino with the seat back disclosed by Niezoldt would result in the structure as claimed.

This rejection should be withdrawn because Nishino, alone or in any proper combination with Niezoldt, fails to disclose, teach or suggest the claimed invention.

For example, independent Claim 5 (as amended) recites a “seat for a vehicle” comprising, among other elements, a “seatback including a seatback frame made from a pipe and sub-frames, each of the sub-frames being cut from a pipe to have an upper cut end and a lower end, the upper

cut ends of the sub-frames being respectively coupled to the seatback frame, the lower ends of the seatback frame and the lower ends of the sub-frames being supported by the support frames.”

Also, independent Claims 9 and 12 (as amended) recite a “seat for a vehicle” comprising, among other elements, a “seatback including a seatback frame having lower ends and sub-frames having upper cut ends and lower ends, the upper cut ends of the sub-frames being coupled to the seatback frame, the lower ends of the seatback frame and the lower ends of the sub-frames being supported by the pair of support members.”

Further, independent Claim 14 (as amended) recites a “seat for a vehicle” comprising, among other elements, a “seatback movably coupled to the first and second support members and including a first frame, a second frame and a third frame, the second frame and the third frame having first cut ends coupled to the first frame and second ends, ends of the first frame and the second ends of the second frame and third frame being supported by the first and second support.”

Nishino, alone or in any proper combination with Niezoldt, fails to disclose, teach or suggest such seats for a vehicle. Rather, as discussed in the Amendment and Reply filed October 3, 2007, Niezoldt teaches away from providing a seat back with anything less than two one-piece tubular frame members that form a “back support 3” and a “front support 4.” An objective of Niezoldt is to provide a seat back “with which it is possible to obtain greater stability under load . . .” (col. 1, lines 20-23). To achieve this objective, Niezoldt discloses a seat back that includes a pair of side outriggers each having a back support 3 and a front support 4” (col. 2, lines 3-11). Each back support 3 merges with a transverse part 6 that runs horizontally to form a one-piece member (col. 2, lines 17-19). Similarly, each front support 4 merges with a transverse part 7 that runs horizontally to form another one-piece member (col. 2, lines 30-33). The combination of the back supports 3 with the transverse part 6 and the combination of the front supports 4 with the transverse part 7 form two one-piece frame members.

To cut either the “back support 3” or the “front support 4” of Niezoldt to form upper cut ends and to couple the upper cut ends to other of “back support 3” or “front support 4” would deteriorate the aforementioned seat back structure suggested by Niezoldt and would render it unsatisfactory for its intended purpose. If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. See M.P.E.P. § 2143.01.

The Examiner has cited no teaching in the art of record of a “seat for a vehicle” that includes a “seatback frame” and “sub-frames” wherein “upper cut ends” of the sub-frames are coupled to the seatback frame. Applicant submits that the only evidence in the record of a teaching of such a feature is contained in the present application. Of course, any reliance on the present application would constitute impermissible hindsight reasoning.

Independent Claims 5, 9, 12 and 14 are allowable over the cited references because at least one limitation in each of these rejected independent claims is not taught or suggested by the cited references. Withdrawal of the rejections of independent Claims 5, 9, 12 and 14 is respectfully requested. Dependent Claims 6-8, 10, 11, 13 and 15-26 variously depend from independent Claims 5, 9, 12 and 14, and are allowable therewith for at least those reasons set forth above, without regard to the further patentable limitations set forth in such claims. Reconsideration and withdrawal of the rejections of Claims 5-26 is respectfully requested.

Further, Applicant notes that the subject matter of “upper cut ends,” with reference to the upper free ends of the sub-frame (independent Claims 5, 9 and 12) or the upper free ends of the second frame or third frame (independent Claim 14), is supported by the present Application (as originally filed) and does not constitute new matter. For example, it is inherent from the original disclosure that the upper ends of the sub-frame and/or the second or third frame are free or cut ends (see, e.g., paragraph [0028], Figures 2, 4 and 5).

* * *

Applicant respectfully submits that each and every pending rejection has been overcome, and that the present Application is in a condition for allowance. In particular, even when the elements of Applicant's claims, as discussed above, are given a broad construction and interpreted to cover equivalents, the cited references do not teach, disclose, or suggest the claimed subject matter. Favorable reconsideration of the Application is respectfully requested.

Further, Applicant respectfully puts the Patent Office and all others on notice that all arguments, representations, and/or amendments contained herein are only applicable to the present Application and should not be considered when evaluating any other patent or patent application including any patents or patent applications which claim priority to this patent application and/or any patents or patent applications to which priority is claimed by this patent application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, the Applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

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